

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JACK REESE,  
FRANCES ELAINE PIDDE,<sup>1</sup>  
JAMES CICHANOPSKY,  
ROGER MILLER,  
GEORGE NOWLIN and  
RONALD HITT,

Plaintiffs,

CASE NO. 2:04-CV-70592  
JUDGE PATRICK J. DUGGAN  
MAGISTRATE JUDGE PAUL J. KOMIVES

v.

CNH AMERICA, L.L.C. and  
CNH GLOBAL N. V.,

Defendants.

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**ORDER GRANTING PLAINTIFFS' DECEMBER 27, 2013 THIRD MOTION FOR  
EXTENSION / MODIFICATION OF SCHEDULING ORDER AND REQUEST FOR  
IMMEDIATE CONSIDERATION (Doc. Ent. 389)**

**A. Background**

1. On May 9, 2013, plaintiffs filed a motion (Doc. Ent. 344) for extension of scheduling order. On June 19, 2013, Judge Duggan entered an opinion and order (Doc. Ent. 353) granting in part and denying in part plaintiffs' motion for extension of scheduling order.
2. On October 24, 2013, plaintiffs filed a second motion for extension of scheduling order and request for immediate consideration. Doc. Ent. 370. By way of the Court's October 31, 2013 order, discovery in this case was due by January 18, 2014 and the dispositive motion cutoff was set for February 3, 2014. *See* Doc. Ent. 372.

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<sup>1</sup>On April 19, 2013, plaintiffs informed the Court of the death of plaintiff Frances Elaine Pidde. Doc. Ent. 343.

**B. Instant Motion**

Currently before the Court is plaintiffs' December 27, 2013 third motion for extension / modification of scheduling order and request for immediate consideration. Doc. Ent. 389. By this motion, plaintiff requests that the following schedule be ordered:

March 14, 2014	Discovery closes & Plaintiffs' rebuttal expert report(s) due
April 14, 2014	Dispositive motion cut-off
May 14, 2014	Dispositive motion(s) response(s) due
May 23, 2014	Dispositive motion(s) reply brief(s) due

*See* Doc. Ent. 389 at 11.

Defendant CNH filed a response on January 6, 2014. Doc. Ent. 391. Specifically, CNH argues:

- I. PLAINTIFFS' REQUEST FOR FURTHER DELAY FLOUTS THE SIXTH CIRCUIT'S MANDATE THAT "THIS LONG-RUNNING CASE NEEDS TO COME TO AN END."
- II. THE CURRENT DISCOVERY RECORD IS SUFFICIENT TO ADDRESS THE SIXTH CIRCUIT'S QUESTIONS.
- III. PLAINTIFFS HAVE NOT SHOWN "GOOD CAUSE" FOR A FURTHER EXTENSION.

Doc. Ent. 391 at 13-20. Within the last of these arguments, CNH asserts that (A) "Most of Plaintiffs' Bases for Delay Are Not Related to Their Current Motion[,]” and (B) "Plaintiffs' Other Reasons for Delay Are Unfounded." Doc. Ent. 391 at 17-20.

Plaintiffs filed a reply on January 8, 2014. Doc. Ent. 393. Furthermore, the Court is in receipt of defense counsel's January 17, 2014 letter, wherein CNH registers its belief that "any basis that may have existed for extending the schedule has now evaporated." Also, the Court is in receipt of plaintiffs' counsel's January 21, 2014 letter, whereby plaintiffs note: "Plaintiffs

have not withdrawn their discovery motions or their motion to extend the schedule and here restate the desire for immediate consideration of the motion to extend."

### **C. Discussion**

Judge Duggan has referred this motion to me for hearing and determination. Doc. Ent. 390. I conclude that plaintiffs' December 27, 2013 third motion for extension / modification of scheduling order and request for immediate consideration (Doc. Ent. 389) seeks only a modest extension of the existing scheduling dates and should be granted.

### **D. Order**

Upon consideration, plaintiffs' December 27, 2013 third motion for extension / modification of scheduling order and request for immediate consideration (Doc. Ent. 389) is GRANTED. Accordingly, the following schedule is implemented:

March 14, 2014	Discovery closes & Plaintiffs' rebuttal expert report(s) due
April 14, 2014	Dispositive motion cut-off
May 14, 2014	Dispositive motion(s) response(s) due
May 23, 2014	Dispositive motion(s) reply brief(s) due

However, no further discovery motions may be filed unless by stipulation or leave of this Court.

IT IS SO ORDERED.

The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).

Date: January 23, 2014

s/Paul J. Komives

PAUL J. KOMIVES

UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on January 23, 2014.

s/ Kay Doaks  
Case Manager